

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 99-CV-02496 (GK)
	)	
PHILIP MORRIS USA INC.,	)	Next scheduled court appearance:
f/k/a PHILIP MORRIS INC., <i>et al.</i> ,	)	September 21, 2004
	)	
Defendants.	)	
	)	

**ARTHUR J. STEVENS**

1   **Q.     What is your name?**

2   A:     I am Arthur J. Stevens

3   **Q:     Where do you live?**

4   A:     I live in New York City.

5   **Q:     Are you an attorney, sir?**

6   A:     Yes I am.

7   **Q:     What year were you licensed to practice?**

8   A:     1960.

9   **Q:     Are you employed?**

10  A:     No, I am retired. My last employer was the Lorillard Tobacco Company. I retired from  
11  the company on January 1, 2000, but continued to act as a consultant to Lorillard until July 2001.

12  **Q:     Please tell the court about your employment history with Lorillard.**

13  A:     I began working for Lorillard in March 1969 as General Counsel. My duties were  
14  general legal advisory responsibilities. In 1971 I became Vice President and General Counsel  
15  for Lorillard. In 1979 I was promoted to Senior Vice President and General Counsel. In  
16  September 1998 I assumed the position of Senior Advisor with the company. In all of these  
17  positions I was the chief legal officer for the Lorillard Tobacco Company. My duties included  
18  providing any and all legal services that the corporation required. I was also in charge of  
19  external affairs and government relations. I was a liaison or Lorillard representative with various  
20  trade organizations and other entities that lobbied on behalf of the company and tobacco  
21  industry. At times I also served as Secretary of the corporation – a position that required me to  
22  arrange annual meetings and board meetings.

23  **Q:     Who was your employer prior to your becoming Lorillard general counsel?**

1 A: I worked as an attorney for Pfizer, now known as Pfizer Incorporated, from 1962 to 1969.

2 **Q: Who hired you at Lorillard?**

3 A: I was hired by two people, Lester Pollack and Manuel Yellen. Mr. Pollack was general  
4 counsel for Lorillard's parent corporation, then called Loew's Theaters. Mr. Yellen was  
5 Chairman and Chief Executive Officer at Lorillard.

6 **Q: Who had been general counsel before you?**

7 A: My immediate predecessor was a man named Phil Grant. I believe he had been in-house  
8 general counsel and vice president for a couple of years at Lorillard. Prior to that he had been an  
9 outside lawyer with a firm who was in a general counsel relationship with Lorillard at the time.

10 **Q: Please take a look at the document marked as U.S. Exhibit 26400. What is this**  
11 **document?**

12 A: This is a letter from John Russell to Lorillard president J.E. Bennett dated January 4,  
13 1966. John Russell was with the firm Perkins, Daniels & McCormack in New York. This was  
14 Phil Grant's firm as well, as you can see from his name in the firm letterhead.

15 **Q: Would you agree that given the Bates number of this document that this letter was**  
16 **produced from Lorillard's files?**

17 A: Yes.

18 **Q: Please also look at the document marked U.S. Exhibit 21211. What is this**  
19 **document?**

20 A: This is a memorandum dated January 16, 1968 from Addison Yeaman to a number of  
21 counsel with whom I later met regularly as part of the Committee of Counsel. One of the  
22 addressees of this memorandum is Phil Grant, my predecessor at Lorillard.

1 **Q: Yeaman states in his first sentence that he had met with Grant, Janet Brown, and**  
2 **Cy Hetsko. Who were the latter two persons?**

3 A: Ms. Brown and Mr. Hetsko were attorneys who represented the American Tobacco  
4 Company.

5 **Q: While you were at Lorillard, what other attorneys worked for the company in-**  
6 **house?**

7 A: A number of attorneys worked for Lorillard in-house over the years. Those attorneys  
8 included James Cherry, Ron Milstein, Jim Reilly, Michael Gastman, Ronald Goldbrenner, and  
9 Nicholas Simeonidis. I had overall supervisory responsibility for all attorneys and all aspects of  
10 the conduct of legal activity.

11 **Q: To whom did you report at Lorillard?**

12 A: I reported to whoever held the position of chief executive officer or chairman of the  
13 board during that period.

14 **Q: Can you please tell us who these people were during your tenure?**

15 A: In my final years at Lorillard, Alex Spears was the chairman of the board, I believe from  
16 1994 until 2000. Prior to Dr. Spears, Andrew H. Tisch was chairman of the board and I reported  
17 to him from approximately 1989 to 1994. J. Robert Ave was Lorillard's chief executive before  
18 Mr. Tisch, and Curtis Judge was chief executive before Mr. Ave. Mr. Judge came to the  
19 company 14 months after I did. When I arrived, Manny Yellen was the chief executive. These  
20 were the persons at Lorillard to whom I reported.

21 **Q: What trade or lobbying organizations did you serve on or work with on behalf of**  
22 **Lorillard?**

1 A: These organizations included the Tobacco Institute, the American Advertising  
2 Federation, the Association of National Advertisers, and the Washington Legal Foundation.

3 **Q: Did Lorillard belong to any international industry organizations?**

4 A: Yes, Lorillard was a member of INFOTAB for a period of time in the 1980s. We were  
5 also a member of CORESTA.

6 **Q: Can you identify the document that has been marked as U.S Ex. 56011?**

7 A: Yes. This is a true and accurate copy of correspondence I received dated March 21,  
8 1986, from Bryan Simpson, the Secretary General of INFOTAB. This is his response to my  
9 earlier letter; he acknowledges Lorillard's withdrawal from INFOTAB.

10 **Q: Why did Lorillard withdraw from INFOTAB?**

11 A: As I had informed Mr. Simpson in my earlier letter, Lorillard would not renew its  
12 INFOTAB membership because we felt that our contributions and participation in the Tobacco  
13 Institute supported INFOTAB's efforts. Mr. Simpson restates this basis in U.S. Exhibit 56011.

14 **Q: Let's talk about the Tobacco Institute. What positions did you hold with the**  
15 **Tobacco Institute?**

16 A: I was on the Board of Directors of the Tobacco Institute for many years during my tenure  
17 at Lorillard. I think I went on the Board as early as 1973 or 1974, and served in that capacity  
18 until 1999, when the Tobacco Institute was dissolved. These positions rotated among the  
19 companies from year to year. I also was a member of the executive committee of the Board of  
20 Directors from time to time. Finally, at various times I was a member of certain Tobacco  
21 Institute committees, such as the Committee of Counsel, the State Activities Policy Committee,  
22 and the Communications Committee. Representatives of the other TI member companies were  
23 also on these committees.

1 **Q: What was the Committee of Counsel?**

2 A: The Committee of Counsel was an advisory committee of lawyers to the Tobacco  
3 Institute and its members, consisting of in-house attorneys from the member companies and  
4 outside attorneys from certain law firms who represented the tobacco industry.

5 **Q: What outside firms had lawyers sitting on and meeting with the Committee of**  
6 **Counsel?**

7 A: Those firms included Shook, Hardy & Bacon, Covington & Burling, Webster Sheffield,  
8 and Jacob, Medinger.

9 **Q: And to your knowledge, did the company representatives at the Tobacco Institute**  
10 **agree on that arrangement.**

11 A: Yes they did.

12 **Q: Tell us about the Committee of Counsel in 1969 when you joined the company.**

13 A: The committee was already in existence and meeting regularly when I joined Lorillard in  
14 March 1969. For a period of time, from when I arrived up until 1971, Lorillard technically was  
15 not a member of the Tobacco Institute. However, I was invited to and sat in on meetings of the  
16 Committee of Counsel even then.

17 **Q: Do the documents marked as U.S. Exhibits 21194, 22044, and 22041 accurately show**  
18 **who sat on the Tobacco Institute Committee of Counsel at various times, to the best of your**  
19 **recollection?**

20 A: Yes, they do.

21 **Q: To whom did the Committee of Counsel report?**

22 A: We reported to the Tobacco Institute Board of Directors. We would regularly inform  
23 them of our discussions at Board meetings.

1   **Q:     Do you recognize the documents marked U.S. Exhibits 29306 and 88448?**

2   A:     Yes. Exhibit 29306 is an agenda for the TI Executive Committee meeting held on  
3   September 3, 1981. One agenda item, at number 6, is a report from the Committee of Counsel.  
4   Exhibit 88448 is the minutes of the October 4, 1973 TI Executive Committee meeting. I was  
5   present for that meeting. The minutes recall that Mr. Roemer made a presentation on behalf of  
6   the Committee of Counsel, informing the Executive Committee as to items we had discussed.

7   **Q:     So providing a report to the Executive Committee was one way that the Committee**  
8   **of Counsel kept the members of the Tobacco Institute informed and up to date?**

9   A:     Yes.

10  **Q:     How often did the Committee of Counsel meet?**

11  A:     It varied over the years. I would say in my 28 or 29 years on the committee it met  
12  anywhere from once a month to every other month to four times a year.

13  **Q:     Did the Committee of Counsel review and recommend scientific research for**  
14  **collective funding by companies?**

15  A:     Yes, the Committee of Counsel would consider proposed research and recommend it to  
16  our individual companies for funding.

17  **Q:     What did the companies and the Committee of Counsel call the research it**  
18  **coordinated in this manner?**

19  A:     Depending on the timeframe and purpose of the research, we called it Special Account  
20  research or CTR Special Projects. Sometimes you will see certain Special Account work  
21  referred to as Special Fund 4 or Special 4.

1 **Q: Let's discuss several of documents related to the Committee of Counsel. Please**  
2 **direct your attention to U.S. Exhibit 36651, and the duplicates at U.S. Exhibit 36638 and**  
3 **20891. What is this document?**

4 A: This is a May 18, 1982 letter from Shook, Hardy & Bacon attorney Bill Shinn to me and  
5 Bob Sachs, an attorney at Brown & Williamson, with copies to other company general counsel.

6 **Q: What was Shook, Hardy & Bacon's relationship to the Tobacco Institute and**  
7 **Lorillard?**

8 A: Shook, Hardy was counsel to both the Tobacco Institute and Lorillard, as well as other  
9 companies such as Philip Morris and Brown & Williamson.

10 **Q: Shinn wrote in this letter that he was providing you background on his firm's**  
11 **dealings with TI, an update of current work being performed, and the names of TI**  
12 **personnel who authorized or initiated projects. Do you see that in the first paragraph?**

13 A: Yes.

14 **Q: Based on your experience as Lorillard general counsel and member of the TI Board**  
15 **of Directors and Committee of Counsel, does Shinn in fact accurately do this in the letter?**

16 A: Yes he does.

17 **Q: The letter recites that one important role of Shook, Hardy was to clear all public**  
18 **statements of TI. Is that statement accurate?**

19 A: Yes it is.

20 **Q: Near the end of the letter, Shinn states that when there is a disagreement between**  
21 **Shook, Hardy and TI, the Committee of Counsel would essentially hear the appeal, and**  
22 **make the decision, giving as one example a dispute where Shook, Hardy advised TI that it**



1    **should not run a Gary Huber interview. Do you recall that procedure involving the**  
2    **Committee of Counsel for dispute resolution?**

3    A:     Yes I do.

4    **Q:     Was Liggett included in Committee of Counsel correspondence and meetings?**

5    A:     Yes, they were, even when they were not a member of the Tobacco Institute.

6    **Q:     Please look at the document marked U.S. Exhibit 25910. What is this document?**

7    A:     This is a letter from Liggett general counsel Josiah Murray to Tobacco Institute president  
8    Sam Chilcote and Tobacco Institute counsel Stan Temko of Covington & Burling. The letter is  
9    dated September 21, 1993.

10   **Q:     Do you see in the first paragraphs where Mr. Murray describes the “limited**  
11   **relationship” between Liggett and TI?**

12   A:     Yes.

13   **Q:     Does that description agree with your recollection of events at that time?**

14   A:     Largely, yes.

15   **Q:     Now let’s look at U.S. Exhibit 87589. What is this document?**

16   A:     This is a November 28, 1983 letter from me to the other members of the Committee of  
17   Counsel at that time, enclosing a proposed agenda for the following Committee of Counsel  
18   meeting taking place on December 8.

19   **Q:     Is that your signature on the document?**

20   A:     Yes it is.

21   **Q:     Was it normal during this time to prepare and disseminate an agenda for**  
22   **Committee of Counsel meetings in advance of the meetings?**

23   A:     Yes it was.

1   **Q:     Please direct your attention to U.S. Exhibit 86094? What is this document?**

2   A:     This document is an agenda corresponding to the March 9, 1983 Committee of Counsel  
3   meeting, held that time at Philip Morris.

4   **Q:     Does the agenda list the topics that were to be discussed at the meeting?**

5   A:     Yes it does.

6   **Q:     And is this document an example of a typical agenda that would be sent to counsel  
7   in advance of the Committee of Counsel meetings?**

8   A:     Yes it is.

9   **Q:     And was it your experience that items placed on a Committee of Counsel agenda  
10  were ordinarily discussed at the meeting?**

11  A:     Yes.

12  **Q:     Now let's look at the document marked U.S. Exhibit 32023. What is this document?**

13  A:     This is a copy of a letter I wrote and sent to Reynolds general counsel Sam Witt  
14  requesting that he include certain items on the upcoming Committee of Counsel agenda.

15  **Q:     Was it common that one member of the Committee of Counsel was tasked with  
16  preparing the agenda and organizing the meeting of the attorneys?**

17  A:     Yes it was.

18  **Q:     And was it usual for counsel to send request for agenda items for discussion by the  
19  Committee of Counsel?**

20  A:     Yes it was. We would make requests, the meeting date would be publicized, and the final  
21  agenda sent around to counsel.

22  **Q:     Now direct you attention to the document marked U.S. Exhibit 35994. What is this  
23  document?**

1 A: This is an agenda from the February 25, 1980 Committee of Counsel meeting held at  
2 Marco Island. This agenda was prepared by Philip Morris counsel Tom Ahrensfeld and sent  
3 around to the other members of the committee, including me. Agendas were often sent by the  
4 responsible attorney under a cover letter.

5 **Q: I see that topic number 4 includes a report from Bill Shinn on Harvard payments**  
6 **and Special Projects. Both the Harvard research and Special Projects were jointly funded**  
7 **work, that is, work funded by all the cigarette manufacturers with representatives on the**  
8 **Committee of Counsel, correct?**

9 A: Yes.

10 **Q: And can you confirm for us that these types of joint industry projects were routinely**  
11 **proposed and discussed at Committee of Counsel meetings?**

12 A: Yes, they were.

13 **Q: Please direct your attention to the documents marked as U.S. Exhibits 21206, 87589,**  
14 **36119, 29296, 87590, 87591, 29291, 87592, 87593, 32030, 86401, 29293, 87594, 86093, 29295,**  
15 **29294, 86094, 86095, 32023, 35994, 88096, 86097, 21206, 59828, and 86815. Do you**  
16 **recognize these documents as Committee of Counsel agendas and letters from or among**  
17 **members of the committee relating to various agendas or agenda items?**

18 A: Yes I do.

19 **Q: So these exhibits illustrate the topics that were discussed collectively among counsel**  
20 **at the Committee of Counsel meetings?**

21 A: Yes they do.

22 **Q: How would information be promulgated among the counsel at these meetings?**

1 A: It was common that counsel would be assigned tasks and topics to present to the  
2 committee as a whole.

3 **Q: Please direct your attention to the document marked as U.S. Exhibit 20874. Is this**  
4 **such a presentation?**

5 A: Yes, it is. This appears to a presentation by EP, which I assume is Brown & Williamson  
6 general counsel Ernie Pepples.

7 **Q: Now please direct your attention to the document marked U.S. Exhibit 86103. What**  
8 **is this document?**

9 A: These are my notes of the November 14, 1983 Committee of Counsel meeting. This  
10 meeting was apparently held at the Tobacco Institute.

11 **Q: And these notes were taken by you, that is, these notes are in your handwriting?**

12 A: Yes.

13 **Q: Did you and other counsel routinely take notes at the meeting of the Committee of**  
14 **Counsel?**

15 A: Yes we did. I would take handwritten notes and often have them typed for later use and  
16 reference.

17 **Q: Why did you write all the names at the top of your notes?**

18 A: These are the names of all those who attended the meeting.

19 **Q: Please take a look at the document marked U.S. Exhibit 20600. What is this**  
20 **document?**

21 A: These are my typed or transcribed notes of a September 10, 1981 meeting of the  
22 Committee of Counsel

1 **Q: Would this document be an example of when you would have your notes of**  
2 **Committee of Counsel meetings typed?**

3 A: Yes.

4 **Q: Would it surprise you if other members of the Committee of Counsel had their notes**  
5 **of the meetings typed in similar form?**

6 A: No, I would expect them to do so.

7 **Q: Please direct your attention to the documents marked as U.S. Exhibits 86090, 30835,**  
8 **59824, 86098, 86099, 21584, 36225, 86100, 86103, 86104, 36224, 86105, 21015, 20980, 22279,**  
9 **36250, 36269, 20600, 22902, 36228, 86367, 20397, 36231, 25857, 34486, 23046, and 20466.**

10 **Do you recognize these documents as the notes, whether types or written, of counsel present**  
11 **at Committee of Counsel meetings?**

12 A: Yes I do.

13 **Q: Now let's look at the document marked U.S. Exhibit 29313. What is this document?**

14 A: This document is my handwritten notes of a Tobacco Institute Executive Committee  
15 meeting held on June 13, 1979.

16 **Q: Do you recognize the handwriting as yours?**

17 A: Yes I do.

18 **Q: So this is an example of notes you would take at Executive Committee meetings,**  
19 **correct?**

20 A: Yes.

21 **Q: Let's move now from the Tobacco Institute to the Council for Tobacco Research.**  
22 **Did you have any contact with the Council for Tobacco Research while employed by**  
23 **Lorillard?**

1 A: Yes. I was a member of the CTR Board of Directors and for a number of years I was the  
2 chair of its Compensation Committee. I became a member of the Board of Directors in about  
3 1979, and served in that capacity until 1999. To the extent that CTR had an executive  
4 committee, I was on that as well. As Lorillard's representative on the Board of Directors, I acted  
5 as the company's principal liaison to CTR and normally attended all meetings of the Board.

6 **Q: Who were the members of the Board of Directors of CTR?**

7 A: They were senior executives from each of the tobacco companies who provide financial  
8 support to CTR, namely Lorillard, Philip Morris, Reynolds. Brown & Williamson, and  
9 American, and at certain times Liggett. At some times, representatives of tobacco growers'  
10 groups and tobacco wholesaler groups also sat on the Board of Directors.

11 **Q: When did you first have dealings with CTR?**

12 A: Almost immediately upon my coming to Lorillard in 1969.

13 **Q: During the period 1969 to 1979, did you also attend Board meetings at CTR?**

14 A: Yes, in my capacity as general counsel to the chief executive of Lorillard, who during  
15 that time attended meetings as a member of the Board of Directors.

16 **Q: Were the minutes of CTR Board of Directors meetings ordinarily prepared and  
17 distributed to the members of the Board?**

18 A: Yes they were.

19 **Q: Please direct your attention to the documents that are marked U.S. Exhibit 32576,  
20 32587, 32590, 32592, and 32626. What are these documents?**

21 A: These are minutes of various CTR Board of Directors meetings that I attended.

22 **Q: You previously mentioned CTR Special Projects and other jointly funded research.  
23 What were CTR Special Projects?**

1 A: CTR Special Projects were not CTR grants or other project work normally funded  
2 through the CTR Scientific Advisory Board (SAB). Instead, these were jointly funded research  
3 projects commissioned by the company general counsels, through outside litigation counsel, for  
4 research into a variety of smoking and health matters designed for possible use in conjunction  
5 with product liability litigation. This research was discussed by counsel at the Committee of  
6 Counsel meetings. So Special Projects were designed to furnish litigation counsel with  
7 information and materials and knowledge and potential witnesses and experts for use in support  
8 of the industry's defense of its product liability litigation.

9 The lawyers on the Committee of Counsel, essentially the general counsels of the  
10 cigarette companies and several outside attorneys, were aware of and involved in knowledge and  
11 somewhat, you could say, the direction of CTR special projects. Although this type of research  
12 was not reviewed by the SAB, the funding was nonetheless through CTR. However, in the late  
13 1980s or early 1990s, the disbursement of funds to CTR Special Projects researchers was taken  
14 out of CTR, and these projects were administered through the outside law firm of Shook, Hardy  
15 & Bacon.

16 **Q: So what you are saying is that the various assembled lawyers who comprised the**  
17 **Committee of Counsel, would from time to time act upon or direct the activities of CTR**  
18 **with respect to its Special Projects?**

19 A: The Committee of Counsel would be made aware of receive recommendations, and give  
20 approvals with respect to CTR Special Projects, but not the business of CTR.

21 **Q: So am I correct that these attorneys, including yourself, who comprised the**  
22 **Committee of Counsel would from time to time direct the activities of CTR Special**  
23 **Projects?**

1 A: Yes. Direct in the sense that the actual day-to-day processing and administration of the  
2 CTR special projects was in the domain of the outside litigation counsel.

3 **Q: Who was outside litigation counsel at the time?**

4 A: It was a changing cast of characters over the years. For Lorillard, it was essentially  
5 Shook, Hardy & Bacon, except that in some of the years during which the Jacobs, Medinger &  
6 Finnegan firm represented R.J. Reynolds, they were also involved in Special Projects on behalf  
7 of some of the other companies, not just their client Reynolds.

8 **Q: Did Philip Morris have a counsel that was involved in the Special Projects?**

9 A: I believe they also used Shook, Hardy & Bacon.

10 **Q: Who directed the activities of the Special Projects?**

11 A: The outside counsel had the primary responsibility for the direction and administration of  
12 them. It is not unreasonable to say that all of the activities of the outside counsel relating to  
13 litigation were under the direction of the general counsels, so the answer is both were involved.  
14 The final approval for a CTR Special Project came from the companies, from the general  
15 counsels, so to that extent, that's final approval and that means something in the way of direction.  
16 That is the way the process worked.

17 **Q: Do you have any understanding as to how such researchers were identified and**  
18 **located?**

19 A: Yes. The litigation counsel were charged with the primary responsibility of finding  
20 researchers who were interested and willing and able to conduct research, or receiving overtures  
21 from researchers who indicated an interest on their part in doing some of it.

22 **Q: If one wanted to find a list of all of the projects and Special Projects that were**  
23 **published, all of the research projects, where would one go?**



1 A: I don't know.

2 **Q: You never saw such a list?**

3 A: I don't know that I ever did.

4 **Q: When Special Projects were funded through CTR, how would the funding function?**

5 A: The research or project would be approved by the companies through the Committee of  
6 Counsel. The researcher, however, would be paid by CTR, and the project was maintained on  
7 the books of CTR.

8 **Q: When Shook, Hardy & Bacon took over the direct funding of Special Projects from**  
9 **CTR, can you give us an example of how the funding would work?**

10 A: Yes. Once the general counsels had approved the project, Lorillard and the other  
11 companies would pay Shook, Hardy & Bacon, who in turn would pay the researcher. Prior to  
12 that, when these were administered through CTR, the companies would pay CTR and CTR  
13 would pay the researcher.

14 **Q: Would Special Projects be a topic of discussion at CTR Board of Directors'**  
15 **meetings?**

16 A: Yes, in the context of its inclusion in a separate financial statement reference.

17 **Q: Now let's talk about Special Account research, sometimes known as Special 3,**  
18 **Special 4, or Special 5. What did this phrase or funding source refer to?**

19 A: Special Account work was similar to CTR Special Projects. Special Account referred to  
20 jointly-funded projects collectively undertaken on behalf of the industry in connection with  
21 defending product liability lawsuits. This was research that was also commissioned by the  
22 lawyers in the industry with the understanding, however, that the work would be kept  
23 confidential. Special Account also encompassed similar research done for purposes of providing

1 materials for use in legislative hearings and for witnesses who would provide testimony on  
2 behalf of the industry at legislative hearings. Similar to Special Projects, Special Account  
3 research was also a topic at Committee of Counsel meetings.

4 **Q: So again, what was the difference between Special Account and Special Projects?**

5 A: To me, Special Account work, such as Special 4, was an adjunct of CTR Special Projects,  
6 and it had the very significant distinction of being work that was intended to be protected for use  
7 in litigation. Whether it was research or whether it was consultation, whether it was literature  
8 review, whatever it was that the grantee was commissioned to do or asked to do. It could have  
9 been advice to counsel.

10 **Q: Under certain circumstances, could the same researchers be CTR Special Project**  
11 **funding recipients and, later, Special Account funding recipients?**

12 A: Yes. Among all of the Special Projects and Special Account research, some of the  
13 researchers may have done both.

14 **Q: To your knowledge, did Liggett participate in the funding of CTR Special Projects**  
15 **and Special Account research?**

16 A: Yes. I am not sure if they funded all CTR Special Projects and Special Account work,  
17 but they funded some of the projects. Liggett had a representative on the Committee of Counsel,  
18 and contributed their share even though they were not a member of CTR during my tenure at  
19 Lorillard.

20 **Q: Please direct your attention to the documents marked as U.S. Exhibits 22295, 22691,**  
21 **46500, 26394, 89057, 89056, 56070, 29412, 21081, 21288, 20209, 20802, 20041, 29322, 26444,**  
22 **26527, 21060, 22042, 21059, 57129, 21096, 29892, 76278, 32125, 32046, 86308, 30912, 30044,**  
23 **32045, 32060, 32126, 20308, 75121, 21200, 21199, 35962, 35963, 29868, 56083, 29340, 29343,**

1 29323, 29326, 29331, 29332, 85769, 85767, 85764, 85766, 85746, 85747, 85744, 85745, 86774,  
2 35968, 35969, 35971, 35972, 35973, 35974, 35975, 35976, 35977, 35981, 35991, 35967, 34067,  
3 34076, 34086, 26557, 26562, 26567, 26517, 26519, 26521, 26522, 26523, 26524, 26526, 26528,  
4 26531, 26546, 26549, 26551, 26552, 26553, 26556, 26513, 26514, 26516, 26488, 26498, 26499,  
5 26445, 26486, 26474, 26469, 26467, 26447, and 26569 .

6 **Do these exhibits illustrate and relate to how CTR Special Projects were proposed, selected,**  
7 **discussed among counsel, audited, approved for funding, and renewed by the companies?**

8 A: Yes they do.

9 **Q: Now please direct your attention to the documents marked U.S. Exhibits**

10 22953, 20214, 20216, 20314, 21065, 21066, 21122, 23468, 23469, 26460, 26461, 26485, 26570,  
11 29551, 36081, 36085, 36096, 36654, 46483, 46500, 62476, 75121, 86491, 26480, 21096, 20060,  
12 46483, 75190, 20720, 36218, 32012, 36118, 87679, 26480, 88436, 35939, 86281, 86282, 86283,  
13 86284, 86285, 26475, 26566, 31967, 32009, 30452, 30476, 29465, 29586, 26583, 36175, 23013,  
14 26464, 32022, 26483, 26489, 26576, 26573, 26482, 86344, 20796, 20784, 21538, 30450, 29290,  
15 36145, 26496, 26495, 34087, 86360, 36088, 32044, 29333, 29342, 29324, 29325, 29327, 29328,  
16 20061, 20887, 85641, 85649, 85651, 85652, 85654, 85656, 85657, 85658, 85659, 85660, 85661,  
17 85662, 85716, 85743, 85768, 85770, 85775, 85776, 85777, 85778, 85961, 86359, 87369, 87380,  
18 87382, 21648, 26481, 26497, 26577, 26579, 34535, 35938, 35958, 35960, 35970, and 86490.

19 **Do these exhibits illustrate and relate to how Special Account and Special 4 work was**  
20 **proposed, selected, discussed among counsel, approved for funding, and renewed by the**  
21 **companies?**

22 A: Yes, they do

1 **Q: How were the Special Project and Special Account activities funded by the various**  
2 **cigarette manufacturers?**

3 A: Each of the companies would agree, through counsel, to participate and they would share  
4 the cost as determined by market share.

5 **Q: Was that a separate funding from what went into CTR and the Tobacco Institute?**

6 A: Yes.

7 **Q: Other than those three jointly funded activities, were there any other funding**  
8 **activities that the companies collectively engaged in?**

9 A: Yes. These are what I would categorize as institutional research. From time to time, the  
10 companies, with joint funding, funded research into a variety of scientific and technical matters  
11 at institutions like Harvard, Washington University of St. Louis, and UCLA.

12 **Q: And do you recognize the document marked U.S. Exhibit 26572?**

13 A: Yes, this document is a letter from me to Bill Shinn dated January 24, 1980 related to  
14 Lorillard's decision to not renew its funding of two institutional projects, namely the work at  
15 Washington University and UCLA.

16 **Q: Let's discuss several of the documents you have identified as relating to CTR**  
17 **Special Projects and Special Account projects. First, please look at the document marked**  
18 **at U.S. Exhibit 36,096. What is this document?**

19 A: This is a letter dated April 2, 1982 from Shook, Hardy & Bacon attorney Patrick Sirridge  
20 to the company general counsel, including me. Joe Greer was from Liggett, Arnie Henson from  
21 American Brands, Alex Holtzman from Philip Morris, Ernie Pepples from Brown & Williamson,  
22 and S.B. Witt from Reynolds.

23 **Q: What was the purpose of this letter?**

1 A: The purpose was to recommend a project by Dr. Theodore Blau for Special Account  
2 funding.

3 **Q: Is this a typical example of how Special Project and Special Account funding would**  
4 **be obtained, that is, the outside attorney would recommend the project, the general**  
5 **counsels would give their approval or disapproval, and if approved, the project would be**  
6 **jointly funded?**

7 A: Yes.

8 **Q: Please direct your attention to U.S. Exhibit 75420. What is this document?**

9 A: This is a memorandum dated July 13, 1984 from Lee Stanford to David Hardy, both  
10 Shook, Hardy & Bacon attorneys. The memorandum relates to Dr. Spears' role in CTR and  
11 specifically in reviewing research projects, including Special Projects. Mr. Stanford also  
12 discusses the Industry Research Committee.

13 **Q: From the Bates number, you can see that this document was produced from**  
14 **Lorillard's files, correct?**

15 A: Correct.

16 **Q: Do you see on the second and third pages where Stanford describes Special Projects**  
17 **and Special Account 4 work?**

18 A: Yes.

19 **Q: With respect to CTR Special Projects, Stanford writes: "In practice, outside counsel**  
20 **and the scientists develop the protocol and budget proposal for the project. This is sent to**  
21 **the CTR Scientific Director (currently Dr. Sommers) for review. If he has no objection, the**  
22 **proposal is then sent to the Generals Counsel of the companies for their approval. Once**  
23 **the General Counsels have approved the project, the scientist is advised to submit an**

1 application to CTR for funding. Other than providing the funding, CTR is not further  
2 involved in the project. Monitoring of the research and contact with the scientist is done  
3 through outside counsel. Funding ranges from \$20,000 to as much as \$400,000 for one year  
4 of Dr. Sterling's project." Do you see that?

5 A: Yes.

6 Q: Mr. Stevens, do you recall the decision to fund Dr. Sterling?

7 A: Yes I do.

8 Q: And do you generally recall the manner in which his work was funded, and the  
9 communications between outside counsel and in-house attorneys related to that work?

10 A: Yes.

11 Q: Is the manner in which Dr. Sterling's work was funded typical of how Special  
12 Projects functioned?

13 A: Yes, it was.

14 Q: Mr. Stevens, would you agree with Mr. Stanford's description of CTR Special  
15 Projects in this memorandum?

16 A: Yes, it is accurate.

17 Q: Now with respect to Special Account projects, Mr. Stanford writes at the bottom of  
18 page 2 that, "These projects are developed by outside counsel, but are not funded through  
19 CTR. Instead, a special account administered by the Jacob firm is used." Mr. Stanford  
20 then writes at the top of page 3 that one reason that this arrangement is used is that "The  
21 project is especially sensitive," and he gives the example of a Battelle project where  
22 researchers measured cotinine, a nicotine metabolite, in non-smokers exposed to tobacco  
23 smoke. Do you see that?

1 A: Yes I do.

2 **Q: Do you recall the Battelle project that Mr. Stanford describes here?**

3 A: Yes I do recall that project.

4 **Q: Do you recall that the Battelle project was not funded by CTR, but through an**  
5 **outside law firm?**

6 A: Yes.

7 **Q: Mr. Stevens, do you agree with Mr. Stanford's description of Special Account work**  
8 **that was jointly funded by Lorillard and the other companies?**

9 A: Yes I do.

10 **Q: Please direct your attention to the document marked U.S. Exhibit 29313. What is this**  
11 **document?**

12 A: These are my notes of a June 1979 meeting of the Tobacco Institute Executive  
13 Committee.

14 **Q: Do you recognize your handwriting?**

15 A: Yes I do.

16 **Q: Please look near the middle of the first page and read what you wrote beginning**  
17 **with the words "regs/litigation."**

18 A: I wrote that, "regulations and litigation is the overarching reason for past Ind[ustry]  
19 research. Has been ably executed. We need witnesses and advisers in lawsuits and legis[lative]  
20 hearings. Can't put all our eggs in 1 basket."

21 **Q: Did you believe that when you wrote that, Mr. Stevens?**

22 A: Yes I did.

1 **Q: Please direct your attention to the document marked as U.S. Exhibit 22,968. What**  
2 **is this document?**

3 A: This is a January 12, 1968 memorandum from Brown & Williamson general counsel  
4 Addison Yeaman titled "The Council for Tobacco Research – USA."

5 **Q: While I understand that this document was written approximately one year before**  
6 **you arrived at Lorillard, do you agree that given the Bates number that this document was**  
7 **produced from Lorillard's files?**

8 A: Yes.

9 **Q: Is it likely, then, that Mr. Yeaman sent this document to the member companies?**

10 A: Yes.

11 **Q: Mr. Yeaman writes on the first page that, "Review of SAB's current grants**  
12 **indicates that a very sizeable number of them are for projects in what might be called**  
13 **'basic research' without specific orientation to the problem of the relationship of the use of**  
14 **tobacco to human health." Do you see that?**

15 A: Yes.

16 **Q: Did you know Mr. Yeaman when you were Lorillard general counsel?**

17 A: Yes, I did. He later became both president and chairman of CTR.

18 **Q: Now direct your attention at the document marked as U.S. Exhibit 29298. What is**  
19 **this document?**

20 A: This is a letter from Brown & Williamson general counsel Ernie Pepples to me dated  
21 October 20, 1983.

22 **Q: In this letter, Mr. Pepples reports that he is ready to report to the Tobacco Institute**  
23 **Executive Committee the recommendations of a research study group, correct?**



1 A: Yes.

2 **Q: Who comprised the research study group?**

3 A: The group consisted of Mr. Pepples, Jim Bowling of Philip Morris, and Lorillard's Alex

4 Spears.

5 **Q: Now Mr. Pepples attached the recommendations to this letter, correct?**

6 A: Correct.

7 **Q: The first recommendation was to "Continue to support research through current**

8 **industry mechanisms." Mr. Stevens, those mechanisms included joint funding of CTR,**

9 **Special Projects, Special Account work, and institutional funding, correct?**

10 A: Yes, that's right.

11 **Q: The third recommendation is that the companies "Be prepared to increase industry**

12 **funding of special projects and address scientific problems and develop witnesses." Do you**

13 **see that?**

14 A: Yes.

15 **Q: And the fifth and final recommendation of Mssrs. Pepples, Bowling, and Spears was**

16 **to "Maintain company cooperation—philosophies about research may differ at times but**

17 **goals should be the same." Do you see that?**

18 A: Yes I do.

19 **Q: Do you recognize the document marked U.S. Exhibit 56080?**

20 A: Yes, I do. This is a letter and draft public statement from Bill Allinder to me, J. Kendrick

21 Wells, and Charles Wall dated October 1, 1991. The purpose of the statement was to respond to

22 criticism of CTR in a published article.

23 **Q: Do you recall if the industry ever made this statement or something like it public?**

1 A: I assume we did.

2 **Q: Please read the last sentence of the statement.**

3 A: The increasing number of requests for funding which CTR receives from highly qualified  
4 scientists and institutions make it clear that important scientific questions remain unanswered  
5 concerning the diseases with which cigarette smoking is statistically associated.”

6 **Q: Did you participate in the drafting of this statement on behalf of Lorillard?**

7 A: Yes, I did.

8 **Q: Does the document marked as U.S. Exhibit 22205 relate to this same subject, namely**  
9 **a 1991 joint industry statement defending CTR?**

10 A: Yes it does

11 **Q: How long did Lorillard, and you as a representative of Lorillard, participate in the**  
12 **review and funding of CTR Special Projects research?**

13 A: Lorillard discontinued participating in CTR Special Projects research several years before  
14 the dissolution of CTR in 1999. I recall that this occurred in the late 1980s or early 1990s. On  
15 the advice of outside counsel, we decided to observe a moratorium on this type of research.

16 **Q: Do you recognize U.S. Exhibits 21102, 21101, and 32066?**

17 A: Yes, these are accurate copies of Lorillard documents between or among Lorillard and  
18 our outside counsel Herb Wachtell at Wachtell, Lipton, Rosen & Katz, as well as Shook, Hardy  
19 & Bacon, relating to the moratorium on Special Project funding we at Lorillard observed starting  
20 in the late 1980s and early 1990s. By moratorium I mean that Lorillard decided to not fund any  
21 new Special Project or Special Account work.

22 **Q: What was the occasion or cause for the moratorium?**

1 A: I believe it was a statement from a federal judge in one of the cases in New Jersey in  
2 which he was harshly critical of the CTR Special Projects and spoke of them in very negative  
3 terms.

4 **Q: To your knowledge, which other companies participated in the moratorium?**

5 A: All of the tobacco companies who had previously funded Special Projects.

6 **Q. In U.S. Exhibit 21102, Mr. Wachtell memorialized your statement that “a**  
7 **moratorium of this nature with respect to this subject should not be of major significance**  
8 **to the industry.” Was this statement accurate and, if so, what was your basis for this**  
9 **statement?**

10 A: Apparently I did tell Mr. Wachtell that. Although I do not recall that exact statement, it is  
11 plausible since we had many conversations about this subject. My basis was that Lorillard could  
12 continue to defend its product liability litigation without the use of any results that might be  
13 generated by Special Projects research.

14 **Q: How long did the moratorium continue?**

15 A: I do not think it was ever discontinued. As far as I know, with one or two minor  
16 exceptions, which allowed the continuation of a project near its end, the moratorium continued  
17 up until the time CTR was dissolved.

18 **Q: Did Lorillard continue to fund outside research used for defensive litigation and**  
19 **legislative purposes after it began observing the moratorium?**

20 A: Yes it did.

21 **Q: How did it do so?**

1 A: Well, one way was that the industry established the Center for Indoor Air Research.

2 While CIAR-funded research looked at many indoor air subjects, CIAR also generated research  
3 that was used by the companies in defensive litigation.

4 **Q: Do you recognize the document marked U.S. Exhibit 32128?**

5 A: Yes I do. These are my notes of a discussion I had with Bill Allinder of Shook, Hardy &  
6 Bacon on May 11, 1994. We talked about a set of Brown & Williamson documents that had  
7 been made public at that time.

8 **Q: And your notes reflect that Mr. Allinder, Lorillard's outside counsel, had reviewed**  
9 **a portion of those documents himself, correct?**

10 A: Yes.

11 **Q: And Shook, Hardy & Bacon was also counsel for Brown & Williamson and BATCo**  
12 **on some matters, correct?**

13 A: Yes.

14 **Q: Please read the portion of your notes on the first page beginning with the word**  
15 **"Research."**

16 A: "Research by B&W, BAT-related companies, some of it overseas. BAT conducted the  
17 work for all of its subsidiaries; some of the subsidiaries may have contributed to payment for the  
18 work. There was an agreement between B&W and BAT intended to insulate BAT. European  
19 scientists and companies were not artful about what they said. Some of the language they used  
20 was unfortunate."

21 **Q: Did Lorillard ever generally examine the research it funded, and the goals of that**  
22 **research as a general matter?**

23 A: Yes, we did from time to time over the years.

1 **Q: Do you recognize the following exhibits as true and accurate copies of documents**  
2 **related to occasions when Lorillard examined its research aims? These documents are**  
3 **identified as U.S. Exhibits 88768, 88769, 29300, 29303, and 86832.**

4 A: Yes they are.

5 **Q: Exhibits 88768 and 88769 were written in February 1974 among you, Mr. Pollock,**  
6 **Mr. Judge and Dr. Spears. At that time, who were these persons?**

7 A: Mr. Judge was the chief executive officer of the company; Mr. Pollack I believe had the  
8 title of vice president, general counsel or vice president of corporate development at our parent  
9 company Loew's, which was then Loew's Theaters. Dr. Spears was the senior officer in  
10 research and development at Lorillard.

11 **Q: What do you recall of the industry Blue Ribbon Committee that was asked by the**  
12 **companies in 1974 to determine if the industry's research activities were appropriate for**  
13 **the needs of the industry?**

14 A: I recall that this was the result of a desire among some of the senior executives in the  
15 industry, including Curtis Judge. Each company chose its own member to sit on the committee.  
16 I believe Dave Hardy Sr. from Shook, Hardy & Bacon was also involved.

17 **Q: Do you recognize U.S. Exhibits 87177, 29722, 55,955 and 20286?**

18 A: These exhibits appear to be accurate copies of documents relating to the 1974 industry  
19 evaluation of its research that I was just speaking of.

20 **Q: I direct your attention to U.S. Exhibit 55955, a memorandum from Dr. Spears to**  
21 **Mr. Judge dated June 24, 1974. Dr. Spears wrote: "Joint industry funded smoking and**  
22 **health research programs have not been selected against specific scientific goals, but rather**

1   **for various purposes such as public relations, political relations, position for litigation, etc."**

2   **Do you see that?**

3   A:     Yes I do, and I have reviewed this document before in preparation for litigation.

4   **Q:     Based on the information that you had available to you in 1974, is that an accurate**  
5   **description of joint industry funded smoking and health research programs?**

6   A:     I believe that in 1974, I would have agreed with Dr. Spears' assertion of what the facts  
7   were at the time.

8   **Q:     Do you recall another joint industry committee called the Research Liaison**  
9   **Committee.**

10  A:     Yes.

11  **Q:     Please direct your attention to U.S. Exhibit 29300. What is this document?**

12  A:     This is a report from David Hardy dated October 3, 1974 titled "Report of Research  
13  Review Committee.

14  **Q:     Do you see on page 2 that Mr. Hardy mentions the Research Liaison Committee?**

15  A:     Yes I do. This was the result of the collective research review the industry did in 1974,  
16  with input from outside counsel.

17  **Q:     Is the Research Review Committee also referred to in the documents marked U.S.**  
18  **Exhibits 20286, 32354, 34532, 63003, and 56829?**

19  A:     Yes, that is correct.

20  **Q:     What was the Industry Research Committee?**

21  A:     The Industry Research Committee was yet another effort on the part of the tobacco  
22  industry to coordinate its outside research in the 1970s and 1980s. This was a subject that came

1 up from time to time over a period of many years. From Lorillard, Dr. Spears sat on the Industry  
2 Research Committee.

3 **Q: Please direct your attention to the document marked as U.S. Exhibit 43667. What is**  
4 **this document?**

5 A: This is a document from Shook, Hardy & Bacon attorney Don Hoel to counsel dated  
6 November 6, 1978. The subject of the memorandum is an Industry Research Committee  
7 Meeting held in Lexington, Kentucky, on October 28, 1978.

8 **Q: Now you recognize and agree that from the Bates number (03543870-3876) this**  
9 **document was produced from Lorillard's files, correct?**

10 A: Yes.

11 **Q: And since it is addressed to "Counsel," you would have received and seen this back**  
12 **in 1978, correct?**

13 A: Yes.

14 **Q: And in fact, the short note on page 5 is in your handwriting, where you indicate that**  
15 **you had sent something to AWS, or Dr. Alexander W. Spears, correct?**

16 A: I believe so.

17 **Q: On page 6 of Mr. Hoel's memorandum, he writes that Janet Brown and Arnie**  
18 **Henson, representing American Brands, said that CTR "must be more politically oriented"**  
19 **and that CTR "must find skeptical scientists" "to see what questions can be raised." Do**  
20 **you see that?**

21 A: Yes I do.

22 **Q: Do you recall that viewpoint back in 1978.**

23 A: Yes I do.

1 **Q: Now look at page 4 near the top, where Hoel recorded that the group discussed**  
2 **concerns inherent in psychological and pharmacological research. Do you see that?**

3 A: Yes.

4 **Q: According to the memorandum, “Concerning the pharmacological research,**  
5 **questions were raised about possible FDA involvement.” Do you recall that the companies,**  
6 **and counsel in particular, were concerned as to the results of CTR research having FDA**  
7 **implications?**

8 A: Yes I do.

9 **Q: Mr. Stevens, please take a look at the document marked U.S. Exhibit 20046. What**  
10 **is this document?**

11 A: This is an internal memorandum dated April 2, 1981 from Dr. Spears to me and Mr.  
12 Judge, with a subject line of “Industry Research Committee.”

13 **Q: Whose handwriting is on the first page, “Reviewed with CHJ, AWS, JRC 6/3/81**  
14 **AJS”?**

15 A: That is mine. I am AJS, CHJ is Mr. Judge, AWS is Dr. Spears, and JRC is Jim Cherry,  
16 an in-house counsel at Lorillard.

17 **Q: So you would agree that at some point you had and read this document?**

18 A: Yes.

19 **Q: At the start of the memorandum, Dr. Spears lists the participants in the Industry**  
20 **Research Committee, including himself, Bill Shinn, Ed Jacob, and other counsel, correct?**

21 A: Yes, that is correct.

22 **Q: So apparently the Industry Research Committee was almost exclusively attorneys,**  
23 **correct?**



1 A: Yes, that is correct.

2 **Q: About halfway down the first page, Dr. Spears wrote that members of the commit**  
3 **discussed a number of items. He then wrote that, “It was agreed that the CTR role would**  
4 **be one of basic research into the disease areas that have been statistically associated with**  
5 **smoking. CTR would not, however, engage in research designed to test the effects of**  
6 **tobacco smoke or tobacco products in animal or human systems.” Do you see that?**

7 A: Yes.

8 **Q: And later in the memorandum, at the top of page 2, Dr. Spears wrote: “The priority**  
9 **area for work involved what was termed as ‘leading edge practical research’ having a**  
10 **research objective and conclusions which could be identified as potentially useful to the**  
11 **industry.” Do you see that also?**

12 A: Yes.

13 **Q: Mr. Stevens, what is the document marked U.S. Exhibit 89058?**

14 A: This is a report from Dr. Spears dated November 16, 1981, to me and Mr. Judge. The  
15 subject is an October 1981 Industry Research Committee meeting.

16 **Q: Did you receive this report?**

17 A: I believe so.

18 **Q: Who was present at the two-day meeting?**

19 A: According to Dr. Spears, present on the first day were Jim Bowling of Philip Morris,  
20 outside counsel Janet Brown and Ed Jacob, TI chairman Horace Kornegay, Ernie Pepples of  
21 Brown & Williamson, and TI president Sam Chilcote. On the second day of the meeting, CTR  
22 Scientific Director Dr. Sommers was also present, as was Alex Holtzman from Philip Morris and  
23 Pat Sirridge from Shook, Hardy & Bacon.

1 **Q: On page 4, Dr. Spears summarizes group discussions on environmental tobacco**  
2 **smoke research, correct?**

3 A: Yes.

4 **Q: What did Dr. Spears write as to Janet Brown's and Ed Jacob's view with respect to**  
5 **cotinine studies?**

6 A: He wrote that both objected to this research because "we should not be involved in  
7 demonstrating that non-smokers' body fluids contain anything related to tobacco smoke."

8 **Q: Direct your attention to the document marked both as U.S. Exhibit 20467 and 35902**  
9 **please. What is this document?**

10 A: This appears to be a memorandum from Philip Morris' Bob Seligman to file dated  
11 November 17, 1978, recording what was discussed at a November 15 meeting.

12 **Q: Does this also appear to be related to the Industry Research Committee we have**  
13 **been speaking of here?**

14 A: Yes. Many of the same members were present at this meeting, including Dr. Spears  
15 representing Lorillard.

16 **Q: According to Dr. Seligman, what happened at the outset of the meeting?**

17 A: Dr. Seligman wrote that Arnold Henson reminded all participants of the meeting that  
18 there should be no written record of what transpired issued for distribution.

19 **Q: Who was Arnold Henson?**

20 A: He was general counsel to American Tobacco.

21 **Q: On page two, please read what Dr. Seligman wrote with respect to Special Projects.**

22 A: He wrote that, "Bill Shinn feels that 'special projects' are the best way monies are spent.  
23 On these projects, CTR has acted as a 'front'; however, there are times when CTR has been

1 reluctant to serve in that capacity and in rare instances they have refused to serve in that  
2 capacity.”

3 **Q: Do you recognize the two-page document marked U.S. Exhibit 34532?**

4 A: Yes, these are handwritten notes from Lorillard president Curtis Judge apparently dated  
5 April 21, 1978.

6 **Q: Do you recognize the handwriting?**

7 A: Yes, I recognize Mr. Judge’s handwriting.

8 **Q: Did you ever get a copy of this from Mr. Judge?**

9 A: I do not recall whether or not I did.

10 **Q: Did Mr. Judge communicate the thoughts that are expressed in this memo to you?**

11 A: I am certain that he did.

12 **Q: Mr. Judge was a pretty strong-willed individual, wasn't he?**

13 A: He communicated his thoughts clearly.

14 **Q: Do you recall his raising the concern that, "We have again abdicated the scientific  
15 research directional management of the industry to the lawyers with virtually no  
16 involvement on the part of scientific or business management side of the business."?**

17 A: I have seen this document before and that reference, so I am aware of it. I have no  
18 specific recollection of his sitting across and saying that to me. He may have. However, I do not  
19 doubt that he wrote this document and that this document reflects his thoughts at the time.

20 **Q: What about the second point that he makes: "Lorillard's management is opposed to  
21 the total industry future being in the hands of the Committee of Counsel. It is reminiscent  
22 of late 1960s when Ramm's group ran the TI, CTR and everything else involved with  
23 industry's public posture." Do you recall his discussing that concept with you?**

1 A: Yes.

2 **Q: Do you recognize the five-page document marked as U.S. Exhibit 21058?**

3 A: Yes, I do. This is a memorandum titled “Council for Tobacco Research” that I wrote,  
4 dated March 16, 1978.

5 **Q: You wrote this approximately one month before Mr. Judge’s notes that we just**  
6 **discussed, correct?**

7 A: That is correct.

8 **Q: You wrote in the first paragraph that “American and other companies dismayed at**  
9 **direction of CTR research . . . American (and apparently others) convinced that Gardner**  
10 **and Kreisher are committed to attempting to demonstrate how tobacco smoke causes**  
11 **disease, rather than whether it causes disease.” You have underlined “how” and**  
12 **“whether.” Who were Gardner and Kreisher?**

13 A: Dr. Gardner was the CTR scientific director and member of the SAB; Dr. Kreisher was  
14 on the CTR scientific staff, an associate director I believe.

15 **Q: Do you recall American and others having this belief?**

16 A: Yes I do.

17 **Q: On the first page, you wrote, “In January 1977 there was thought to be an**  
18 **agreement (C/C) that promotive carcinogenic experiments were not to proceed until whole**  
19 **smoke work completed.” Was “C/C” your abbreviation for Committee of Counsel?**

20 A: Yes.

21 **Q: And did you in fact write this statement?**

22 A: Yes I did.

1 **Q: Do you also recognize the document marked as U.S. Exhibit 21395 and 22294 as**  
2 **notes written by Curt Judge?**

3 A: Yes, I do. Exhibit 21395 reflects notes apparently taken at a meeting at CTR; the other  
4 document contains notes of an Industry Research Committee.

5 **Q: Do you recognize the name Dr. Gary Huber?**

6 A: Yes. During my tenure as general counsel for Lorillard, Dr. Huber performed industry-  
7 funded research at Harvard University. The time frame was 1972 to 1980. I personally met with  
8 Dr. Huber during this time, perhaps on six or eight occasions. I recall that Dr. Spears also met  
9 with him during this time, and Curt Judge may have met him once.

10 **Q: Do you recognize the name Professor Tore Dalhamn?**

11 A: Yes I do. Professor Dalhamn was a confidential consultant in Sweden with whom  
12 Lorillard entered into a consultancy and research arrangement in the 1970s.

13 **Q: Do you recognize the following exhibits as true and accurate copies of documents**  
14 **related to Lorillard's relationship with Dr. Dalhamn? These documents are identified as**  
15 **U.S. Exhibits 85700, 85703, and 85702.**

16 A: Yes I do.

17 **Q: Are you familiar with the Center for Indoor Air Research?**

18 A: Yes. In the late 1980s Dr. Spears told me of the companies' intent to create the entity  
19 called CIAR. Lorillard's position at the time and when I left the company was that secondhand  
20 smoke and indoor air generally were subjects of great interest to the industry, and ones that we  
21 wanted to fund research into. Lorillard, along with Philip Morris, R.J. Reynolds, and Brown &  
22 Williamson, was a member of CIAR. Lorillard participated in the funding of CIAR and had

1 members on the Board of Directors. Dr. Spears was the primary Lorillard representative in  
2 CIAR matters.

3 **Q: Was the subject of secondhand smoke, or environmental tobacco smoke, important**  
4 **to Lorillard during your tenure?**

5 A: Yes it was.

6 **Q: Please take a look at the documents marked as U.S. Exhibits 26460, 85641, 26461,**  
7 **85747, 26570, 85764, 36085, 85766, 75121, 23510, 29551, 22164, 22982, 22164, and 62782.**

8 **Do you recognize the following documents as true and accurate copies of documents related**  
9 **to the subjects of CIAR and environmental tobacco smoke generally?**

10 A: Yes I do.

11 **Q: Please look at the document marked U.S. Exhibit 23510. What is this document?**

12 A: This document is a letter from Shook, Hardy & Bacon attorney Don Hoel to the general  
13 counsel of the companies, including myself, dated July 9, 1987.

14 **Q: What was the ETS Advisory Group?**

15 A: The ETS Advisory Group was committee of attorneys who would consider and approve  
16 Special Project-type research related to environmental tobacco smoke. Don Hoel was the  
17 coordinator of the group.

18 **Q: Do you recall that, as stated in this letter, the Center for Indoor Air Research was**  
19 **being discussed to function as a “new funding mechanism for ETS projects?”**

20 A: Yes I do. And the CIAR was up and operational approximately one year later.

21 **Q: And CIAR allowed the member companies, Philip Morris, Reynolds, Brown &**  
22 **Williamson, and Lorillard to continue jointly funding research related to company**  
23 **objectives concerning ETS, correct?**

1 A: Yes, that is correct.

2 **Q: Now direct your attention to the document marked as U.S. Exhibit 62782. What is**  
3 **this document?**

4 A: These are the minutes of the December 10, 1987 meeting of the Tobacco Institute  
5 Executive Committee.

6 **Q: You were in fact a member of the Executive Committee and present for this**  
7 **meeting, correct?**

8 A: According to the minutes, yes I was.

9 **Q: On the last page, it was recorded that Tom Osdene from Philip Morris and his**  
10 **group would proceed with locating and hiring an executive director for CIAR, as well as**  
11 **take other steps for the establishment of CIAR. Do you see that?**

12 A: Yes I do.

13 **Q: Do you recall that after this time steps were being taken among the companies for**  
14 **the establishment of CIAR?**

15 A: Yes I do.

16 **Q: Do you recognize the document that has been marked U.S. Exhibit 24097?**

17 A: Yes.

18 **Q: What is it?**

19 A: It is an April 16, 1980 memo from me to Messrs. Judge, Ave and Spears entitled "New  
20 England Journal of Medicine James White Article."

21 **Q: In April 1980, what were the positions of Mr. Judge, Mr. Ave and Dr. Spears?**

22 A: Mr. Judge was the chief executive officer of Lorillard; Mr. Ave at that time, I believe,  
23 was executive vice president of marketing; and Dr. Spears was either senior vice president of

1 research and development or executive vice president of research and development. I can't be  
2 certain of the denominations preceding Mr. Ave and Dr. Spears's title, whether they were  
3 executive vice presidents or senior vice presidents, but they were the senior operatives in those  
4 areas.

5 **Q: Sir, do you recall from reading this memo or from personal recollection that two**  
6 **scientists last names White and Froeb published a study in March 1980 commonly known**  
7 **as the White/Froeb study?**

8 A: Yes.

9 **Q: Do you recall that their research was published in The New England Journal of**  
10 **Medicine?**

11 A: Yes, I do.

12 **Q: Do you also recall that the White/Froeb study reported that people chronically**  
13 **exposed to smoke in the workplace had reduced small airway lung function?**

14 A: I cannot recall with specificity the summary of their findings, but that sounds familiar.

15 **Q: At the bottom of the second page, there is something that appears similar to a**  
16 **footnote, where you say that, "Another article is scheduled for publication soon in Science**  
17 **Magazine, by Repace. Preparations are being made to try and rebut that before" and you**  
18 **have underlined the word "before," "it achieves any significant impact. Mel Furst is being**  
19 **contacted in this regard." Did you write this note as I have just quoted it?**

20 A: Yes.

21 **Q: Who was Mel Furst?**

22 A: Melvin Furst was a scientist outside of the industry, but I do not remember where he was  
23 affiliated or what his discipline was.



1    **Q:    He was funded from time to time as an industry Special Project, correct?**

2    A:    Yes. From time to time, Mel Furst was a Special Project researcher.

3    **Q:    Do you recall any other instances where the industry or Lorillard felt the need to**  
4    **refute studies or scientific research in this manner that your memorandum describes**  
5    **refuting these two studies?**

6    A:    Yes, there were many over the course of 30 years.

7    **Q:    What relationship, if any, did Lorillard have with Harley Davidson in the 1980s and**  
8    **1990s?**

9    A:    Harley Davidson and Lorillard had a licensing agreement where Harley Davison granted  
10   Lorillard a license to use their trademarked name on a brand of our cigarettes.

11   **Q:    Do you recall a dispute with Harley Davidson in the early to mid-1990s?**

12   A:    Yes. Generally speaking, Harley Davidson was unhappy when their market research  
13   allegedly revealed that Lorillard's proposed promotional campaign for Harley Davidson  
14   cigarettes would appeal to children.

15   **Q: Do you recognize the document that has been marked U.S. Exhibit 21760?**

16   A:    Yes, this is correspondence between Lorillard and Harley Davidson relating to the  
17   dispute.

18   **Q:    On page two of U.S. Exhibit 21760, the general counsel of Harley-Davidson wrote:**  
19   **"We engaged a market research firm specializing in child research to advise us about**  
20   **whether Lorillard's proposed promotional campaign will appeal to underaged children. . .**  
21   **The team of researchers accomplished a great deal in a short period of time. Their work so**  
22   **far suggests the campaign will appeal to underaged children." Do you see that?**

23   A:    Yes.

1 **Q: So as a result of this letter, Lorillard was on notice that at least one research firm**  
2 **had concluded that its Harley-Davidson advertising would appeal to children correct?**

3 A: Yes, we were.

4 **Q: What came of the dispute with Harley Davidson?**

5 A: I recall that there was a lawsuit or series of lawsuits which were finally resolved with an  
6 out-of-court settlement and the dissolution of the licensing agreement. There may have been a  
7 phase out period in which Lorillard was permitted to sell off some existing inventory.

8 **Q: Mr. Stevens, do you recall when Lorillard CEO Andrew Tisch spoke before the**  
9 **Waxman Subcommittee in 1994?**

10 A: Yes, I do. In fact, I was present in the public section of the hearing room.

11 **Q: Who assisted him the preparation of his comments to the subcommittee?**

12 A: I assisted him. In addition, we sought assistance from outside counsel at Shook, Hardy &  
13 Bacon and Covington & Burling. I believe John Rupp of Covington & Burling participated in  
14 the preparation of Mr. Tisch. I also believe that Dr. Spears took part. We prepared a written  
15 statement for Mr. Tisch to deliver to the committee, and prepared him for what we expected  
16 would be a question and answer session.

17 **Q: Do you recognize the document marked U.S. Exhibit 89055?**

18 A: This is a memorandum I and Michael Gastman wrote to Curtis Judge, Lester Pollack, and  
19 R.H. Orcutt dated May 15, 1972. Mr. Gastman was a lawyer on my staff. Mr. Judge was  
20 Lorillard president. Mr. Pollack and Mr. Orcutt were executives at our parent Loews.

21 **Q: Does this document in any way refresh your recollection concerning the topic that is**  
22 **being discussed, i.e., the report of the Standing Scientific Liaison Committee of Great**  
23 **Britain?**

1 A: To a degree, it does. At or about that time, May of 1972, this committee in Great Britain  
2 was either getting ready to publish or had under consideration various aspects of smoking and  
3 health. I would acquaint it roughly -- and this is inexact, but somewhat to the Surgeon General's  
4 report or something of that nature, that it was getting ready to consider and release such a report  
5 and I think was seeking submissions from interested parties. I do not recall if the report was ever  
6 subsequently issued.

7 **Q: Does the document marked as U.S. Exhibit 29346 appear to be related to the SSLC**  
8 **matter?**

9 A: Yes it does. This is dated July 25, 1972, and describes the industry's collective response  
10 to the SSLC findings.

11 **Q: Do you recognize the document marked as U.S. Exhibit 29414?**

12 A: Yes, I do. This is a letter I wrote to Tom Austern at Covington & Burling enclosing  
13 Lorillard's payment for research performed at Philip Morris in 1969.

14 **Q: What was the research and who contributed?**

15 A: This as smoker intake research paid for by Philip Morris, Lorillard, Reynolds, and Brown  
16 & Williamson.

17 **Q: And did you mail the letter and Lorillard's payment?**

18 A: I believe so.

19 **Q: Do you have any understanding of what the Literature Retrieval Division was or is?**

20 A: Yes I do. The literature retrieval division or fund, at the time that it was administered  
21 financially and administratively by the Council for Tobacco Research, was a computer function  
22 organization whose purpose was to collect, compile, be able to retrieve and furnish to litigation  
23 counsel information for their use in product liability litigation. That was its purpose.

1 **Q: And how many years did the Literature Retrieval Division operate?**

2 A: I can't be precise with respect to dates. It existed in one form or another for many, many  
3 years throughout my tenure in the industry. For a number of years, as I say, it was administered,  
4 I believe, by the Council for Tobacco Research, and then at some point -- and I don't know  
5 exactly which year -- it was removed from the administration of CTR and operated  
6 independently from CTR.

7 **Q: Was it operated then by one of the outside law firms?**

8 A: It was operated under the direction of a number of the law firms.

9 **Q: Do you recognize the following documents as true and accurate copies of documents**  
10 **related to the Literature Retrieval Division, or LRD? These documents are identified as**  
11 **U.S. Exhibits 31557, 26402, 36624, 31556, 36628, 20481, 31558, 36627, 31554, 36626, 31555,**  
12 **36625, 21080 and 20050.**

13 A: Yes I do.

14 **Q: Do you recognize the document marked as U.S. Exhibit 36624?**

15 A: Yes I do. This is a letter from William Hoyt, the president of CTR at the time, to me and  
16 other general counsels dated December 13, 1982. The subject matter is the continued funding of  
17 LRD.

18 **Q: Funding of LRD, similar to Special Projects and Special Account work, was**  
19 **determined by market share, as shown in this letter from Mr. Hoyt, correct?**

20 A: Yes, that is correct.

21 **Q: And in 1982, LRD was still a function of CTR, correct?**

22 A: Yes.

23 **Q: Please identify the document that has been marked U.S. Exhibit 22299 and 21699.**

1 A: This document is a memorandum dated November 16, 1970 from Dr. Spears to Mr.  
2 Judge and to me, summarizing a presentation by Dr. Auerbach before the Tobacco Working  
3 Group in November 1970.

4 **Q: What was the tobacco working group?**

5 A: I came to understand that the tobacco working group was a group formed under the  
6 auspices at that time of a forerunner of what was to become or what was already the National  
7 Cancer Institute in Washington. I believe it was a group that consisted of government  
8 representatives from various government agencies and functions, including some from the  
9 scientific and medical area, as well as industry representatives.

10 **Q: Did Lorillard have a representative on the Tobacco Working Group?**

11 A: Yes, Dr. Spears participated and was Lorillard's representative in the group.

12 **Q: Do you recognize the following documents, marked as U.S. Exhibits 22299, 22902,**  
13 **22295, 22296, 22311, 22282, 22265 and 21699 as true and accurate copies of documents**  
14 **related to the Tobacco Working Group you just described? These documents are**  
15 **identified as U.S. Exhibits:**

16 A: Yes I do.

17 **Q: Please turn your attention back to the first of these Tobacco Working Group**  
18 **Exhibits, the document marked as U.S. Exhibit 22299. What is this document again?**

19 A: This document is an internal memorandum from Dr. Spears, the Lorillard representative  
20 on the TWG, to me and Curt Judge dated November 16, 1970.

21 **Q: Do you recall receiving this memorandum?**

22 A: Yes I do.

1    **Q:**     And do the handwritten initials “AWS” on the second page appear to be those of  
2    **Dr. Spears?**

3    A:     Yes they do.

4    **Q:**     In this memorandum, Dr. Spears reports on Dr. Auerbach’s studies showing that  
5    cigarette smoke had produced tumors in dogs, correct?

6    A:     Yes.

7    **Q:**     And that Dr. Auerbach planned to report on emphysema-type changes in the dogs’  
8    lungs as well, correct?

9    A:     Yes.

10   **Q:**     In the very last paragraph, Dr. Spears wrote to you and Mr. Judge that Dr.  
11   Auerbach had invited Dr. Sommers of CTR to visit his laboratory, but that he received no  
12   acknowledgement. Who was Dr. Sommers?

13   A:     Dr. Sommers was the CTR Scientific Director at the time.

14   **Q:**     Turning your attention to the document marked U.S. Exhibit 22902, what is this  
15   document?

16   A:     This appears to be the typed notes of DeBaun Bryant, general counsel for Brown &  
17   Williamson, dated March 15, 1973. The subject matter is the Tobacco Working Group and a  
18   meeting of the Committee of Counsel the day before.

19   **Q:**     Did you know Mr. Bryant?

20   A:     Yes.

21   **Q:**     Were you a member of the Committee of Counsel at that time in 1973?

22   A:     Yes I was.

1 **Q: Mr. Bryant writes on the first page that: “After careful consideration of the views of**  
2 **the members of the Tobacco Institute staff with regard to the public relations and political**  
3 **effects of a public withdrawal from the TWG, it was concluded that the research directors**  
4 **cannot withdraw.” Mr. Bryant was talking about the research directors of the tobacco**  
5 **companies, including Dr. Spears of Lorillard, correct?**

6 A: Yes he was.

7 **Q: Do you recall that the companies agreed that the research directors should remain**  
8 **members of the Tobacco Working Group for public relations and political reasons?**

9 A: Yes I do.

10 **Q: Please direct your attention to the document marked as U.S. Exhibit 87037. Do you**  
11 **recognize this document?**

12 A: Yes. This is a letter I wrote to the other general counsel dated July 20, 1987. The subject  
13 matter was “Litigation Public Relations.”

14 **Q: Was this letter sent?**

15 A: Yes it was.

16 **Q: That this letter related to press contacts during the Cipollone trial, correct?**

17 A; Yes, that’s right.

18 **Q: Turning to the last page of your letter, you write: “Discretion by Burson-Marsteller**  
19 **is of the essence and they are not to announce or otherwise allow to be published or known**  
20 **(generally or to Edelman) that they are acting for us. That may have to change, but I see**  
21 **no purpose in them disclosing themselves at this time as our agents.” Do you see that?**

22 A: Yes.

1 Q: Were you deposed on March 30, 2000 in the case of Blue Cross and Blue Shield of  
2 New Jersey v. Philip Morris, Inc. et al?

3 A: Yes I was.

4 Q: And at that time you were a consultant for Lorillard, correct?

5 A: Yes..

6 Q: And at that deposition, did you state the following in response to the question  
7 whether smoking causes disease: “I am aware that the company and other companies are  
8 of the position and the view, and I embrace that, that cigarette smoking is a risk factor for  
9 disease, and I have no argument with the public health and the medical and other  
10 authorities taking that position.”?

11 A: Yes I did.

12 Q: Were you aware, Mr. Stevens, that the risk factor formulation you stated was not  
13 the position of public health authorities?

14 A: Yes, I was.

15 Q: And when asked to define the “difference between saying that smoking is a risk  
16 factor in disease and saying that smoking causes disease,” did you respond, “I think one is  
17 more conclusory and more positive than the other . . . . To say that it causes [disease] is  
18 certainly more positive and more conclusive, more definitive. To say that it is a risk factor  
19 says that it may be.”?

20 A: Yes, that is what I said.

21 Q: Please direct your attention to the document marked U.S. Exhibit 57176. What is  
22 this document?



1 A: This is a memorandum from Jim Cherry, an in-house attorney who worked for me at  
2 Lorillard, to E.A. Harrow and copied to me. The date of this document is December 19, 1990,  
3 and the subject is "Public Relations."

4 **Q: Can you read paragraph D, please?**

5 A: Yes. Mr. Cherry wrote that, "Lorillard does not and will not authorize the use of the  
6 Risk Factor formulation for causation for public relations purposes. We wish to maintain the  
7 traditional articulation: unproven, statistical, lack of mechanism. Risk Factor discussion is for  
8 scientists only and only in the courtroom and its controlled circumstances."

9 **Q: Did Mr. Cherry accurately state Lorillard's position at that time?**

10 A: Yes he did.

11 **Q: Up until the time you retired from Lorillard, you were aware of those positions the**  
12 **company took in litigation?**

13 A: Yes I was.

14 **Q: And what was that position at the time you retired?**

15 A: I think prior to my retirement or my last year of activity, I think the company was in  
16 some instances indicating that cigarettes may be a risk factor.

17 **Q: Isn't it true that throughout the 1960s, 1970s and 1980s, Lorillard consistently took**  
18 **a position in litigation that smoking is not a risk factor for disease?**

19 A: Yes.

20 **Q: And isn't also true that Lorillard consistently took a position during that same time**  
21 **in litigation that smoking does not cause disease?**

22 A: Yes, I believe that was our position.

1 **Q: And throughout the 1960s, 1970s and 1980s, what position did Lorillard take with**  
2 **respect to addiction?**

3 A: Lorillard challenged the assertion that under any and all circumstances cigarettes were  
4 addictive.

5 **Q: Do you recall that Andrew Tisch testified in Congress in 1994 on the subject of**  
6 **nicotine and addiction?**

7 A: Yes. I do.

8 **Q: Do you recall what he said?**

9 A: He said that in his opinion, cigarette smoking was not addictive.

10 **Q: Did you work with Mr. Tisch in preparing him for his testimony?**

11 A: Yes I did.

12 **Q: In terms of Lorillard's policies, positions on smoking and health issues, regardless of**  
13 **whether they are public policies or litigation positions, who sets those positions?**

14 A: Dr. Spears.

15 **Q: How long was that true?**

16 A: Since at least March 17, 1969, when I came to the company.

17 **Q: And you are aware that Dr. Spears testified frequently over the years in litigation**  
18 **and in depositions?**

19 A: I am.

20 **Q: Going back to the 1970s, do you recall whether Lorillard had any part of its**  
21 **advertising budget or public relations budget focused on an initiative to educate kids to the**  
22 **dangers of smoking?**

23 A: There was no such allocation.

1    **Q:     Would that be true of the 1980s as well?**

2    A:     As far as I know.

3    **Q:     Do you recognize the document marked as U.S. Exhibit 86990?**

4    A:     Yes I do. This is an affidavit I prepared and signed as part of the State of Minnesota  
5    litigation. The affidavit is dated April 4, 1997.

6    **Q:     And is that your notarized signature on page 5 of the affidavit?**

7    A:     Yes it is.

8    **Q:     Thank you, Mr. Stevens.**